

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )  
                                ) No. 3:13-CR-139  
v.                            )  
                                ) (JORDAN/GUYTON)  
DIANE L. GREGORY,         )  
                                )  
Defendants.                )

**MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on November 22, 2013, for a telephonic motion hearing on the Defendant's Motion to Continue [Doc. 11] her December 12, 2013 trial date. Assistant United States Attorney Frank M. Dale Jr., represented the Government. Attorney Bobby E. Hutson, Jr., represented the Defendant.

In her motion, the Defendant submits that a continuance is warranted because her attorney has not completed an investigation of the facts and circumstances of this case. The Defendant maintains that a continuance will provide additional time to properly prepare the case as well as allow the parties an opportunity to make a full resolution of this matter. Moreover, the Defendant states that she is currently receiving treatment for a life-threatening medical issue, and therefore, she has been unable to adequately assist her attorney in preparing her defense. Attorney Huston further submits that he has advised the Defendant about her speedy trial rights and that she

understands that the time between the filing of this motion and a new trial date will be fully excludable for speed trial purposes.

During the hearing, the Government stated that it had no objection to a continuance in this case.

The parties agreed on a new trial date of March 18, 2014, and that all time between the hearing and the new trial date was fully excludable under the Speedy Trial Act.

The Court finds the Defendant's Motion to Continue to be well-taken, and that the ends of justice served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court observes that the Defendant's motion demonstrates a need for additional time for counsel to interview his client, review discovery, and investigate the facts of the case. The Court finds that this necessary trial preparation could not take place before the December 10, 2013 trial date. Accordingly, the Court finds that the failure to grant a continuance would deprive counsel of the reasonable time necessary to prepare for trial despite his use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

Therefore, the Defendant's Motion to Continue Trial [**Doc. 11**] is **GRANTED**, and her trial is reset to **March 18, 2014**. The Court also finds that all the time between the hearing on the Defendant's motion on November 22, 2013, and the new trial date of March 18, 2014, to be fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(1)(D), -(6), & -(7)(A)-(B). With regard to further scheduling in this case, the new deadline for filing motions is **February 4, 2014**. Responses are due on or before **February 18, 2014**. The parties are instructed to appear before the undersigned for a pretrial conference on **March 4, 2014, at 11 a.m.** This date shall also serve as the deadline for concluding plea

negotiations. In addition, the Court instructs the parties that all motions *in limine* must be filed no later than **March 3, 2014**. Finally, special requests for jury instructions shall be submitted to the District Court no later than **March 10, 2014**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

- (1) The Defendant's Motion to Continue [Doc. 11] the December 10, 2013 trial is **GRANTED**;
- (2) The trial of the Defendant is reset to **March 18, 2014, at 9:00 a.m.**, before the Honorable R. Leon Jordan, United States District Judge;
- (3) All time between the motion hearing on **November 22, 2013**, and the new trial date of **March 18, 2014**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The deadline for filing pretrial motions is **February 4, 2014**, with a response cut-off date of **February 18, 2014**;
- (5) The parties are to appear before the undersigned on **March 4, 2014, at 11 a.m.** for a pretrial conference;
- (6) The parties have until **March 4, 2014**, to conclude plea negotiations;
- (7) Motions *in limine* must be filed no later than **March 3, 2014**; and
- (8) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **March 10, 2014**.

**IT IS SO ORDERED.**

ENTER:

s/ H. Bruce Guyton  
United States Magistrate Judge